

SENATE BILL NO. 503

INTRODUCED BY W. MCKAMEY, E. BUTTREY, S. FITZPATRICK, J. ELLSWORTH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING POLITICAL PARTY COMMITTEE LAWS; CREATING A COUNTY VACANCY AND DELEGATE COMMITTEE; PROVIDING FOR THE ELECTION OF COMMITTEE MEMBERS; ESTABLISHING THE DUTIES AND AUTHORITY OF THE COMMITTEE; PROHIBITING THE COMMITTEE FROM MAKING CERTAIN CAMPAIGN CONTRIBUTIONS AND EXPENDITURES; ELIMINATING PRECINCT REPRESENTATIVES AND CITY AND COUNTY CENTRAL COMMITTEES; AMENDING SECTIONS 5-2-402, 5-2-403, 5-2-406, 7-4-2106, 7-4-2206, 13-1-101, 13-4-102, 13-10-201, 13-10-211, 13-10-327, 13-38-107, 30-13-219, AND 30-13-342, MCA; AND REPEALING SECTIONS 13-38-105, 13-38-106, 13-38-201, 13-38-202, 13-38-203, 13-38-204, AND 13-38-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. County vacancy and delegate committee -- members -- duties.** (1) (a)

At each primary election held pursuant to 13-1-107(1), a political party shall elect members of a county vacancy and delegate committee, subject to 13-10-209. A committee member must be a resident and registered voter of the county. The term of a county vacancy and delegate committee member is 2 years.

(b) The numbers of county vacancy and delegate committee members are set as follows:

(i) if there are two or fewer legislative house districts in the county, five individuals must be elected to the committee by the county's primary voters;

(ii) if there are three or more legislative house districts in the county, two individuals must be elected out of each legislative house district by the district's primary voters; and

(iii) if there is an even number of legislative house districts in a county, one additional individual must be elected on an at-large basis by the county's primary voters.

(2) The county vacancy and delegate committee shall:

(a) adopt rules and file the rules with the county election administrator;

(b) select as many delegates to the state party convention as requested by the state central

1 committee;

2 (c) nominate individuals to serve as election judges on behalf of the party in local elections;

3 (d) at its first meeting after every primary held pursuant to 13-1-107(1), elect a presiding officer

4 who shall serve until the next primary election; and

5 (e) make nominations to fill vacancies occurring among the candidates of their respective parties

6 nominated for city, county, or legislative offices by the primary election only when the vacancy is caused by

7 death, resignation, or removal from the electoral district.

8 (3) If the use of a proxy by a county vacancy and delegate committee member is authorized under

9 party rules, the proxy must be:

10 (a) in writing;

11 (b) dated on a day or at a time prior to the meeting in which the proxy is used; and

12 (c) signed or electronically authorized by the committee member on whose behalf it will be cast.

13 (4) A county vacancy and delegate committee member's proxy that is cast in violation of the

14 provisions of subsection (3) is invalid, and the outcome of a vote or action determined by the use of the

15 committee member's unauthorized proxy is void.

16 (5) Vacancies in the office of the county vacancy and delegate committee occur only on the death

17 or written resignation of the incumbent or when the incumbent is no longer a resident or registered voter of the

18 county or applicable legislative district if elected pursuant to subsection (1)(b)(ii). A county vacancy and

19 delegate committee member may not otherwise be removed from office, including for a failure to attend a

20 meeting. If a vacancy occurs, the remaining members of the county vacancy and delegate committee may

21 select a county or legislative district resident to fill the vacancy.

22 (6) A county vacancy and delegate committee may not raise and spend funds beyond what is

23 necessary to perform the duties provided in subsection (2). The committee may not make contributions and

24 expenditures on behalf of candidates or for independent expenditures. Nothing in this subsection otherwise

25 prohibits individual members of the committee from participating in political party activities or forming a separate

26 political committee as provided in Title 13, chapter 37.

27

28 **Section 2.** Section 5-2-402, MCA, is amended to read:

1           **"5-2-402. Appointment by board of county commissioners -- county central-vacancy and**  
2 **delegate committee role -- timeframes.** (1) Except as provided in subsection (5) or as otherwise provided by  
3 law, whenever a vacancy occurs in the legislature, the vacancy must be filled by appointment by the board of  
4 county commissioners or, in the event of a multicounty district, the boards of county commissioners of the  
5 counties comprising the district sitting as one appointing board.

6           (2)     (a) Whenever a vacancy as described in 2-16-501 is within a single county, the board of county  
7 commissioners shall make the appointment as described in 5-2-403, 5-2-404, or 5-2-406.

8           (b)     Whenever a vacancy is within a multicounty district, the boards of county commissioners shall  
9 sit as one appointing board. The selection of an individual to fill the vacancy must be as follows:

10          (i)     The presiding officer of the board of county commissioners of the county in which the person  
11 resided whose vacancy is to be filled shall call a meeting for the purpose of appointing the member of the  
12 legislature and shall preside at the meeting.

13          (ii)    Each commissioner's vote is determined by the following formula: 100 multiplied by (A divided  
14 by B) multiplied by (1 divided by C), where:

15          (A)     A is the total votes cast in the respective county for the person vacating the legislative seat or,  
16 if the vacating person was not elected, the votes cast for the last person to be elected for the current term;

17          (B)     B is the total votes cast for that person in the legislative district; and

18          (C)     C is the number of authorized commissioners on the board of the commissioner whose vote is  
19 being determined.

20          (iii)   The person selected to fill the vacancy is the one who receives the highest number above 50  
21 that results from the calculation in subsection (2)(b)(ii). If none of the candidates receives a number higher than  
22 50 from that calculation, the selection board shall cast its votes again in the same manner for the persons  
23 receiving the two highest numbers. If neither vote results in a candidate receiving a number higher than 50 from  
24 the calculation provided in subsection (2)(b)(ii), then 5-2-404 applies.

25          (c)     If a vacancy occurs in a holdover senate seat after holdover senators have been assigned to  
26 new districts under each reapportionment, the formula in subsection (2)(b)(ii) must be applied using the votes  
27 cast for the senatorial candidates at the last election in which votes were cast for a senate candidate. Only the  
28 number of votes cast by electors residing in the new senate district for senate candidates of the party to which

1 the person vacating the seat belonged may be counted. The secretary of state shall provide an estimate of the  
2 number of votes cast for each party by county or portion of a county. The selection process is the same as  
3 provided in subsection (2)(b)(iii).

4 (3) The appointment process to fill a vacancy in the legislature under this section is as follows:

5 (a) Within 7 days of being notified of a vacancy, the secretary of state shall notify the board of  
6 county commissioners and the state party that is responsible for notifying the county ~~central vacancy and~~  
7 delegate committee of the county where the vacating legislator is a resident, if the legislative seat is within one  
8 county, or the boards of county commissioners and the corresponding county ~~central vacancy and delegate~~  
9 committees if the legislative seat is in a multicounty district. If the legislator is an independent or belongs to a  
10 party for which there is no county ~~central vacancy and delegate~~ committee, the notification of county  
11 commissioners suffices.

12 (b) The county ~~central vacancy and delegate~~ committee or committees, upon receipt of notification  
13 of a vacancy, have 45 days to propose a list of prospective appointees, pursuant to 5-2-403(1). The county  
14 ~~central vacancy and delegate~~ committee or the county ~~central vacancy and delegate~~ committees, acting  
15 together, shall forward the list of names to the appointing board within the 45-day period.

16 (c) The appointing board shall make and confirm an appointment and notify the secretary of state  
17 within 15 days:

18 (i) after receiving the list of prospective appointees from the county ~~central vacancy and delegate~~  
19 committee or committees;

20 (ii) after 45 days have expired after the notification of a vacancy if the county ~~central vacancy and~~  
21 delegate committee or committees have not provided a list of prospective appointees; or

22 (iii) after notification of a vacancy if the legislator vacating the seat is an independent.

23 (4) If the legislature is in session, the notification process in subsection (3)(a) must be followed  
24 within 5 days. The process described in subsection (3)(b) must take place in 5 days. The process described in  
25 subsection (3)(c) must take place in 5 days.

26 (5) Notwithstanding subsection (6), if a vacancy occurs prior to a primary election, 13-10-326  
27 applies. If a vacancy occurs after a primary and prior to a general election, 13-10-327 applies.

28 (6) If the legislature is called into special session within 85 days of a general election, a person

1 must be appointed to fill a legislative vacancy pursuant to subsections (1) through (4)."

2

3 **Section 3.** Section 5-2-403, MCA, is amended to read:

4 **"5-2-403. Appointee to be of same political party.** (1) Whenever an appointee's predecessor  
5 served as a member of a political party, the appointee named under 5-2-402 must be a member of the same  
6 political party and must be selected from a list of three individuals provided:

7 (a) by the county ~~central vacancy and delegate~~ committee in a district within a single county; or

8 (b) by the county ~~central vacancy and delegate~~ committees, acting together, in a multicounty  
9 district, as described in 5-2-402.

10 (2) Whenever the appointing board is unable to elect an appointee from the submitted list, the  
11 appointing board shall request a second list of three names from the county ~~central vacancy and delegate~~  
12 committee or committees. The second list may not contain any of the names submitted on the first list. The  
13 appointing board shall then select an appointee from the individuals named on both lists.

14 (3) The provisions of this section do not apply if the predecessor served as an independent."

15

16 **Section 4.** Section 5-2-406, MCA, is amended to read:

17 **"5-2-406. Elections to fill vacancies in senate.** (1) Whenever a vacancy occurs 85 days or more  
18 before the general election held during the second year of the term, an individual must be appointed pursuant  
19 to 5-2-402. The appointment continues until a person is elected to complete the term at the upcoming general  
20 election and is sworn into office. The election procedure to be used to elect the successor is as follows:

21 (a) Whenever the vacancy occurs 85 days or more prior to the primary election during the second  
22 year, the same procedure as is used for senators who will be elected to full 4-year terms at that general election  
23 must be utilized.

24 (b) Whenever the vacancy occurs on or after the 85th day prior to the primary election, any political  
25 party desiring to enter a candidate in the general election shall select a candidate as provided in 13-10-327 and  
26 ~~13-38-204~~ [section 1]. A political party shall notify the secretary of state of the party nominee. A person desiring  
27 to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The  
28 petition for an independent candidate must be filed with the secretary of state on or before the 85th day prior to

1 the general election.

2 (2) Whenever a vacancy occurs on or after the 85th day prior to the general election held during  
3 the second year of the term, the person appointed by the board under 5-2-402 shall serve until the end of the  
4 term."

5

6 **Section 5.** Section 7-4-2106, MCA, is amended to read:

7 **"7-4-2106. Vacancy on board of county commissioners -- resigning member not to participate**  
8 **in filling pending vacancy.** (1) For the purposes of this part, "vacancy" has the same meaning as prescribed  
9 in 2-16-501.

10 (2) Whenever a vacancy occurs in the board of county commissioners from a failure to elect or  
11 otherwise, the remaining county commissioners shall fill the vacancy and the appointee shall hold office until  
12 the next general election unless otherwise provided in subsection (3) or (4). The procedure to be used to fill the  
13 vacancy is as follows:

14 (a) If the former incumbent represented a party eligible for a primary election under 13-10-601, the  
15 county ~~central~~ vacancy and delegate committee of that party shall submit to the remaining commissioners three  
16 names of people who have lived in the unrepresented district for at least 2 years immediately preceding the day  
17 the vacancy occurs. The remaining commissioners shall appoint one of these three to fill the vacancy.

18 Whenever the remaining commissioners are unable to elect an appointee from the submitted list, they shall  
19 request a second list of three names from the county ~~central~~ vacancy and delegate committee. The second list  
20 may not contain any of the names submitted on the first list. The remaining commissioners shall then select an  
21 appointee from the individuals named on both lists.

22 (b) If the former incumbent was independent, nonpartisan, or originally nominated by a party that  
23 does not meet the requirements of 13-10-601 or if the vacancy occurs from a failure to elect, the remaining  
24 commissioners shall invite applications for the vacancy in a notice published as provided in 13-1-108 and shall  
25 accept an application from any person who has lived in the unrepresented district for at least 2 years  
26 immediately preceding the day the vacancy occurs. The remaining commissioners shall appoint one of these  
27 applicants to fill the vacancy.

28 (3) Whenever a vacancy occurs prior to August 1 before the general election held during the

1 second or fourth year of the term, an individual must be elected to complete the term at that general election.

2 The election procedure to be used to elect the successor is as follows:

3 (a) Whenever the vacancy occurs prior to March 1 before the primary election during the second or  
4 fourth year of the term, the same procedure must be used as is used to elect county commissioners to full 6-  
5 year terms.

6 (b) Whenever the vacancy occurs on or after March 1 preceding the primary election, any political  
7 party desiring to enter a candidate in the general election shall select a candidate as provided in ~~13-38-204~~  
8 [section 1]. A political party shall notify the county election administrator of the party nominee. A person desiring  
9 to be a candidate as an independent shall follow the procedures provided in 13-10-501 and 13-10-502. The  
10 petition for an independent candidate must be filed with the county election administrator prior to August 1  
11 before the general election. A candidate for a nonpartisan office shall file as provided in Title 13, chapter 14.

12 (4) Whenever a vacancy occurs after July 31 preceding the general election held during the fourth  
13 year of the term, the person appointed by the remaining county commissioners under subsection (2) shall serve  
14 until the end of the term.

15 (5) (a) If multiple vacancies occur simultaneously so that a quorum cannot be established, the  
16 county compensation board provided for in 7-4-2503 shall, subject to subsection (5)(c) of this section, appoint  
17 enough commissioners to allow for a quorum to be established. The vacancies must be filled in the order in  
18 which the commissioners' terms would have expired.

19 (b) If vacancies occur at different times but, because appointments have not yet been made, a  
20 quorum cannot be established, the county compensation board shall, subject to subsection (5)(c), appoint  
21 enough commissioners to allow for a quorum to be established. The county compensation board shall appoint  
22 each commissioner in the order that the vacancy occurred.

23 (c) (i) A commissioner appointed under this subsection (5) must meet the residency requirement in  
24 7-4-2104(2) and must be from the same district as the commissioner being replaced.

25 (ii) If a commissioner being replaced represented a party eligible for a primary election under 13-  
26 10-601, the county ~~central vacancy and delegate~~ committee of that party shall, within 30 days of the occurrence  
27 of the vacancy, submit to the county compensation board three names of people who have lived in the  
28 unrepresented district for at least 2 years immediately prior to the occurrence of the vacancy. The county

1 compensation board shall appoint each commissioner from the list of names provided by the county ~~central~~  
2 vacancy and delegate committee.

3 (d) Once a quorum can be established, the county commissioners forming the quorum shall  
4 appoint the remaining commissioners as provided in this section.

5 (e) If a county compensation board does not exist, appointments under this subsection (5) must be  
6 made by a district judge having jurisdiction in the county.

7 (6) If a member of the board of county commissioners has submitted the member's resignation as  
8 provided in 2-16-502 or if proceedings have begun to remove the member from office under 2-16-501, that  
9 member may not be considered to be a remaining member of the commission as provided in this section and  
10 may not participate in filling the vacancy to be created when the resignation becomes effective."  
11

12 **Section 6.** Section 7-4-2206, MCA, is amended to read:

13 **"7-4-2206. Vacancies -- appointment of interim officer.** (1) For the purposes of this part, "vacancy"  
14 has the same meaning as prescribed in 2-16-501.

15 (2) (a) Vacancies in all county offices, except that of county commissioner, must be filled by  
16 appointment by the board of county commissioners. Except as provided in subsections (3) and (4), the  
17 appointee holds the office, if elective, until the person elected at the next general election is certified pursuant to  
18 13-15-406. If the office is not elective, the appointee serves at the pleasure of the commissioners.

19 (b) The commissioners may appoint a person to serve as an interim officer for the time period  
20 between occurrence of the vacancy and the date on which the vacancy is filled pursuant to this section. A  
21 person appointed as an interim officer must have the qualifications required under this chapter for the office to  
22 which the person has been appointed. Upon appointment, the interim officer is authorized to perform the duties  
23 assigned by law to that office.

24 (3) Whenever a vacancy occurs prior to August 1 before the general election held during the  
25 second year of the term, an individual must be elected to complete the term at that general election. The  
26 election procedure to be used to elect the successor is as follows:

27 (a) Whenever the vacancy occurs prior to March 1 before the primary election during the second  
28 year of the term, the same procedure must be used as is used to elect a person to that office for a full 4-year

1 term.

2 (b) Whenever the vacancy occurs on or after March 1 before the primary election, any political  
3 party desiring to enter a candidate in a partisan election in the general election shall select a candidate as  
4 provided in ~~13-38-204~~ [section 1]. A political party shall notify the county election administrator of the party  
5 nominee. A person desiring to be a candidate as an independent shall follow the procedures provided in 13-10-  
6 501 and 13-10-502. The petition for an independent candidate must be filed with the county election  
7 administrator prior to August 1 before the general election. A candidate for a nonpartisan office shall file as  
8 provided in Title 13, chapter 14.

9 (4) Whenever a vacancy occurs after July 31 before the general election held during the second  
10 year of the term, the person appointed by the commissioners under subsection (2) shall serve until the end of  
11 the term."

12

13 **Section 7.** Section 13-1-101, MCA, is amended to read:

14 **"13-1-101. Definitions.** As used in this title, unless the context clearly indicates otherwise, the  
15 following definitions apply:

16 (1) "Active elector" means an elector whose name has not been placed on the inactive list due to  
17 failure to respond to confirmation notices pursuant to 13-2-220 or 13-19-313.

18 (2) "Active list" means a list of active electors maintained pursuant to 13-2-220.

19 (3) "Anything of value" means any goods that have a certain utility to the recipient that is real and  
20 that is ordinarily not given away free but is purchased.

21 (4) "Application for voter registration" means a voter registration form prescribed by the secretary  
22 of state that is completed and signed by an elector, is submitted to the election administrator, and contains  
23 voter registration information subject to verification as provided by law.

24 (5) "Ballot" means a paper ballot counted manually or a paper ballot counted by a machine, such  
25 as an optical scan system or other technology that automatically tabulates votes cast by processing the paper  
26 ballots.

27 (6) (a) "Ballot issue" or "issue" means a proposal submitted to the people at an election for their  
28 approval or rejection, including but not limited to an initiative, referendum, proposed constitutional amendment,

1 recall question, school levy question, bond issue question, or ballot question.

2 (b) For the purposes of chapters 35 and 37, an issue becomes a "ballot issue" upon certification by  
3 the proper official that the legal procedure necessary for its qualification and placement on the ballot has been  
4 completed, except that a statewide issue becomes a "ballot issue" upon preparation and transmission by the  
5 secretary of state of the form of the petition or referral to the person who submitted the proposed issue.

6 (7) "Ballot issue committee" means a political committee specifically organized to support or  
7 oppose a ballot issue.

8 (8) "Candidate" means:

9 (a) an individual who has filed a declaration or petition for nomination, acceptance of nomination,  
10 or appointment as a candidate for public office as required by law;

11 (b) for the purposes of chapter 35, 36, or 37, an individual who has solicited or received and  
12 retained contributions, made expenditures, or given consent to an individual, organization, political party, or  
13 committee to solicit or receive and retain contributions or make expenditures on the individual's behalf to secure  
14 nomination or election to any office at any time, whether or not the office for which the individual will seek  
15 nomination or election is known when the:

16 (i) solicitation is made;

17 (ii) contribution is received and retained; or

18 (iii) expenditure is made; or

19 (c) an officeholder who is the subject of a recall election.

20 (9) (a) "Contribution" means:

21 (i) the receipt by a candidate or a political committee of an advance, gift, loan, conveyance,  
22 deposit, payment, or distribution of money or anything of value to support or oppose a candidate or a ballot  
23 issue;

24 (ii) an expenditure, including an in-kind expenditure, that is made in coordination with a candidate  
25 or ballot issue committee and is reportable by the candidate or ballot issue committee as a contribution;

26 (iii) the receipt by a political committee of funds transferred from another political committee; or

27 (iv) the payment by a person other than a candidate or political committee of compensation for the  
28 personal services of another person that are rendered to a candidate or political committee.

1 (b) The term does not mean:

2 (i) services provided without compensation by individuals volunteering a portion or all of their time  
3 on behalf of a candidate or political committee;

4 (ii) meals and lodging provided by individuals in their private residences for a candidate or other  
5 individual;

6 (iii) the use of a person's real property for a fundraising reception or other political event; or

7 (iv) the cost of a communication not for distribution to the general public by a religious organization  
8 exempt from federal income tax when compliance with Title 13 would burden the organization's sincerely held  
9 religious beliefs or practices.

10 (c) This definition does not apply to Title 13, chapter 37, part 6.

11 (10) "Coordinated", including any variations of the term, means made in cooperation with, in  
12 consultation with, at the request of, or with the express prior consent of a candidate or political committee or an  
13 agent of a candidate or political committee.

14 (11) "De minimis act" means an action, contribution, or expenditure that is so small that it does not  
15 trigger registration, reporting, disclaimer, or disclosure obligations under Title 13, chapter 35 or 37, or warrant  
16 enforcement as a campaign practices violation under Title 13, chapter 37.

17 (12) "Disability" means a temporary or permanent mental or physical impairment such as:

18 (a) impaired vision;

19 (b) impaired hearing;

20 (c) impaired mobility. Individuals having impaired mobility include those who require use of a  
21 wheelchair and those who are ambulatory but are physically impaired because of age, disability, or disease.

22 (d) impaired mental or physical functioning that makes it difficult for the person to participate in the  
23 process of voting.

24 (13) "Election" means a general, special, or primary election held pursuant to the requirements of  
25 state law, regardless of the time or purpose.

26 (14) (a) "Election administrator" means, except as provided in subsection (14)(b), the county clerk  
27 and recorder or the individual designated by a county governing body to be responsible for all election  
28 administration duties, except that with regard to school elections not administered by the county, the term

1 means the school district clerk.

2 (b) As used in chapter 2 regarding voter registration, the term means the county clerk and recorder  
3 or the individual designated by a county governing body to be responsible for all election administration duties  
4 even if the school election is administered by the school district clerk.

5 (15) (a) "Election communication" means the following forms of communication to support or  
6 oppose a candidate or ballot issue:

7 (i) a paid advertisement broadcast over radio, television, cable, or satellite;

8 (ii) paid placement of content on the internet or other electronic communication network;

9 (iii) a paid advertisement published in a newspaper or periodical or on a billboard;

10 (iv) a mailing; or

11 (v) printed materials.

12 (b) The term does not mean:

13 (i) an activity or communication for the purpose of encouraging individuals to register to vote or to  
14 vote, if that activity or communication does not mention or depict a clearly identified candidate or ballot issue;

15 (ii) a communication that does not support or oppose a candidate or ballot issue;

16 (iii) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any  
17 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general  
18 circulation;

19 (iv) a communication by any membership organization or corporation to its members, stockholders,  
20 or employees;

21 (v) a communication not for distribution to the general public by a religious organization exempt  
22 from federal income tax when compliance with Title 13 would burden the organization's sincerely held religious  
23 beliefs or practices; or

24 (vi) a communication that the commissioner determines by rule is not an election communication.

25 (16) "Election judge" means a person who is appointed pursuant to Title 13, chapter 4, part 1, to  
26 perform duties as specified by law.

27 (17) (a) "Electioneering communication" means a paid communication that is publicly distributed by  
28 radio, television, cable, satellite, internet website, newspaper, periodical, billboard, mail, or any other

1 distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does  
2 not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the  
3 district voting on the candidate or ballot issue, and that:

4 (i) refers to one or more clearly identified candidates in that election;

5 (ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that  
6 election; or

7 (iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

8 (b) The term does not mean:

9 (i) a bona fide news story, commentary, blog, or editorial distributed through the facilities of any  
10 broadcasting station, newspaper, magazine, internet website, or other periodical publication of general  
11 circulation unless the facilities are owned or controlled by a candidate or political committee;

12 (ii) a communication by any membership organization or corporation to its members, stockholders,  
13 or employees;

14 (iii) a commercial communication that depicts a candidate's name, image, likeness, or voice only in  
15 the candidate's capacity as owner, operator, or employee of a business that existed prior to the candidacy;

16 (iv) a communication that constitutes a candidate debate or forum or that solely promotes a  
17 candidate debate or forum and is made by or on behalf of the person sponsoring the debate or forum;

18 (v) a communication not for distribution to the general public by a religious organization exempt  
19 from federal income tax when compliance with Title 13 would burden the organization's sincerely held religious  
20 beliefs or practices; or

21 (vi) a communication that the commissioner determines by rule is not an electioneering  
22 communication.

23 (18) "Elector" means an individual qualified to vote under state law.

24 (19) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or  
25 gift of money or anything of value:

26 (i) made by a candidate or political committee to support or oppose a candidate or a ballot issue;

27 (ii) made by a candidate while the candidate is engaging in campaign activity to pay child-care  
28 expenses as provided in 13-37-220; or

- 1 (iii) used or intended for use in making independent expenditures or in producing electioneering  
2 communications.
- 3 (b) The term does not mean:
- 4 (i) services, food, or lodging provided in a manner that they are not contributions under subsection  
5 (9);
- 6 (ii) except as provided in subsection (19)(a)(ii), payments by a candidate for personal travel  
7 expenses, food, clothing, lodging, or personal necessities for the candidate and the candidate's family;
- 8 (iii) the cost of any bona fide news story, commentary, blog, or editorial distributed through the  
9 facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general  
10 circulation;
- 11 (iv) the cost of any communication by any membership organization or corporation to its members  
12 or stockholders or employees;
- 13 (v) the use of a person's real property for a fundraising reception or other political event; or
- 14 (vi) the cost of a communication not for distribution to the general public by a religious organization  
15 exempt from federal income tax when compliance with Title 13 would burden the organization's sincerely held  
16 religious beliefs or practices.
- 17 (c) This definition does not apply to Title 13, chapter 37, part 6.
- 18 (20) "Federal election" means an election in even-numbered years in which an elector may vote for  
19 individuals for the office of president of the United States or for the United States congress.
- 20 (21) "General election" means an election that is held for offices that first appear on a primary  
21 election ballot, unless the primary is cancelled as authorized by law, and that is held on a date specified in 13-  
22 1-104.
- 23 (22) "Inactive elector" means an individual who failed to respond to confirmation notices and whose  
24 name was placed on the inactive list pursuant to 13-2-220 or 13-19-313.
- 25 (23) "Inactive list" means a list of inactive electors maintained pursuant to 13-2-220 or 13-19-313.
- 26 (24) (a) "Incidental committee" means a political committee that is not specifically organized or  
27 operating for the primary purpose of supporting or opposing candidates or ballot issues but that may  
28 incidentally become a political committee by receiving a contribution or making an expenditure.

1 (b) For the purpose of this subsection (24), the primary purpose is determined by the  
2 commissioner by rule and includes criteria such as the allocation of budget, staff, or members' activity or the  
3 statement of purpose or goal of the person or individuals that form the committee.

4 (25) "Independent committee" means a political committee organized for the primary purpose of  
5 receiving contributions and making expenditures that is not controlled either directly or indirectly by a candidate  
6 and that does not coordinate with a candidate in conjunction with the making of expenditures except pursuant  
7 to the limits set forth in 13-37-216(1).

8 (26) "Independent expenditure" means an expenditure for an election communication to support or  
9 oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue  
10 committee.

11 (27) "Individual" means a human being.

12 (28) "Legally registered elector" means an individual whose application for voter registration was  
13 accepted, processed, and verified as provided by law.

14 (29) "Mail ballot election" means any election that is conducted under Title 13, chapter 19, by  
15 mailing ballots to all active electors.

16 (30) "Person" means an individual, corporation, association, firm, partnership, cooperative,  
17 committee, including a political committee, club, union, or other organization or group of individuals or a  
18 candidate as defined in subsection (8).

19 (31) "Place of deposit" means a location designated by the election administrator pursuant to 13-19-  
20 307 for a mail ballot election conducted under Title 13, chapter 19.

21 (32) (a) "Political committee" means a combination of two or more individuals or a person other than  
22 an individual who receives a contribution or makes an expenditure:

23 (i) to support or oppose a candidate or a committee organized to support or oppose a candidate  
24 or a petition for nomination;

25 (ii) to support or oppose a ballot issue or a committee organized to support or oppose a ballot  
26 issue; or

27 (iii) to prepare or disseminate an election communication, an electioneering communication, or an  
28 independent expenditure.

1 (b) Political committees include ballot issue committees, incidental committees, independent  
2 committees, and political party committees.

3 (c) A candidate and the candidate's treasurer do not constitute a political committee.

4 (d) A political committee is not formed when a combination of two or more individuals or a person  
5 other than an individual makes an election communication, an electioneering communication, or an  
6 independent expenditure of \$250 or less.

7 (e) A joint fundraising committee is not a political committee.

8 (33) "Political party committee" means a political committee formed by a political party organization  
9 ~~and includes all county and city central committees.~~

10 (34) "Political party organization" means a political organization that:

11 (a) was represented on the official ballot in either of the two most recent statewide general  
12 elections; or

13 (b) has met the petition requirements provided in Title 13, chapter 10, part 5.

14 (35) "Political subdivision" means a county, consolidated municipal-county government,  
15 municipality, special purpose district, or any other unit of government, except school districts, having authority  
16 to hold an election.

17 (36) "Polling place election" means an election primarily conducted at polling places rather than by  
18 mail under the provisions of Title 13, chapter 19.

19 (37) "Primary" or "primary election" means an election held on a date specified in 13-1-107 to  
20 nominate candidates for offices filled at a general election.

21 (38) "Provisional ballot" means a ballot cast by an elector whose identity or eligibility to vote has not  
22 been verified as provided by law.

23 (39) "Provisionally registered elector" means an individual whose application for voter registration  
24 was accepted but whose identity or eligibility has not yet been verified as provided by law.

25 (40) "Public office" means a state, county, municipal, school, or other district office that is filled by  
26 the people at an election.

27 (41) "Random-sample audit" means an audit involving a manual count of ballots from designated  
28 races and ballot issues in precincts selected through a random process as provided in 13-17-503.

1           (42) "Registrar" means the county election administrator and any regularly appointed deputy or  
2 assistant election administrator.

3           (43) "Regular school election" means the school trustee election provided for in 20-20-105(1).

4           (44) "Religious organization" means a house of worship with the major purpose of supporting  
5 religious activities, including but not limited to a church, mosque, shrine, synagogue, or temple. The organic  
6 documents of the organization must list a formal code of doctrine and discipline, and the organization must  
7 spend the majority of its money on religious activities such as regular religious services, educational  
8 preparation for its ministers, development and support of its ministers, membership development, outreach and  
9 support, and the production and distribution of religious literature developed by the organization.

10          (45) "School election" has the meaning provided in 20-1-101.

11          (46) "School election filing officer" means the filing officer with whom the declarations for nomination  
12 for school district office were filed or with whom the school ballot issue was filed.

13          (47) "School recount board" means the board authorized pursuant to 20-20-420 to perform recount  
14 duties in school elections.

15          (48) "Signature envelope" means an envelope that contains a secrecy envelope and ballot and that  
16 is designed to:

17           (a) allow election officials, upon examination of the outside of the envelope, to determine that the  
18 ballot is being submitted by someone who is in fact a qualified elector and who has not already voted; and

19           (b) allow it to be used in the United States mail.

20          (49) "Special election" means an election held on a day other than the day specified for a primary  
21 election, general election, or regular school election.

22          (50) "Special purpose district" means an area with special boundaries created as authorized by law  
23 for a specialized and limited purpose.

24          (51) "Statewide voter registration list" means the voter registration list established and maintained  
25 pursuant to 13-2-107 and 13-2-108.

26          (52) "Support or oppose", including any variations of the term, means:

27           (a) using express words, including but not limited to "vote", "oppose", "support", "elect", "defeat", or  
28 "reject", that call for the nomination, election, or defeat of one or more clearly identified candidates, the election

1 or defeat of one or more political parties, or the passage or defeat of one or more ballot issues submitted to  
2 voters in an election; or

3 (b) otherwise referring to or depicting one or more clearly identified candidates, political parties, or  
4 ballot issues in a manner that is susceptible of no reasonable interpretation other than as a call for the  
5 nomination, election, or defeat of the candidate in an election, the election or defeat of the political party, or the  
6 passage or defeat of the ballot issue or other question submitted to the voters in an election.

7 (53) "Valid vote" means a vote that has been counted as valid or determined to be valid as provided  
8 in 13-15-206.

9 (54) "Voted ballot" means a ballot that is:

10 (a) deposited in the ballot box at a polling place;

11 (b) received at the election administrator's office; or

12 (c) returned to a place of deposit.

13 (55) "Voter interface device" means a voting system that:

14 (a) is accessible to electors with disabilities;

15 (b) communicates voting instructions and ballot information to a voter;

16 (c) allows the voter to select and vote for candidates and issues and to verify and change  
17 selections; and

18 (d) produces a paper ballot that displays electors' choices so the elector can confirm the ballot's  
19 accuracy and that may be manually counted.

20 (56) "Voting system" or "system" means any machine, device, technology, or equipment used to  
21 automatically record, tabulate, or process the vote of an elector cast on a paper ballot."  
22

23 **Section 8.** Section 13-4-102, MCA, is amended to read:

24 **"13-4-102. Manner of choosing election judges.** (1) Subject to 13-4-107, election judges must be  
25 chosen from lists of qualified registered electors in the county, submitted at least 45 days before the primary  
26 election in even-numbered years by the ~~county central~~ county vacancy and delegate committees of the political  
27 parties eligible to nominate candidates in the primary.

28 (2) The list of each party may contain more names than the number of election judges to be

1 appointed. The names of those not appointed as election judges must be given to the election administrator for  
2 use in making appointments to fill vacancies.

3 (3) Each board of election judges must include judges representing all parties that have submitted  
4 lists as provided in subsection (1). No more than the number of election judges needed to obtain a simple  
5 majority may be appointed from the list of one political party in each county. If any of the political parties entitled  
6 to do so fail to submit a list meeting the requirements of this section, the governing body shall, to the extent  
7 possible, appoint judges so that all parties eligible to participate in the primary are represented on each board.

8 (4) The election administrator shall make appointments to fill vacancies from the list provided for in  
9 subsection (2). If the list is insufficient or if one or more of the eligible political parties fails to submit a list  
10 meeting the requirements of this section, the election administrator may select enough people meeting the  
11 qualifications of 13-4-107 to fill election judge vacancies in all precincts.

12 (5) An elector chosen to potentially serve as an election judge must be notified of selection at least  
13 30 days before the primary election in even-numbered years. Each elector who agrees to serve as an election  
14 judge shall attend a training class conducted under 13-4-203 and shall continue to serve as provided in 13-4-  
15 103."

16

17 **Section 9.** Section 13-10-201, MCA, is amended to read:

18 **"13-10-201. Declaration for nomination -- term limitations.** (1) Each candidate in the primary  
19 election, except nonpartisan candidates filing under the provisions of Title 13, chapter 14, shall file a declaration  
20 for nomination with the secretary of state or election administrator. Except for a candidate under ~~13-38-201(4)~~  
21 [section 1(1)] or a candidate covered under 7-1-205, a candidate may not file for more than one public office.  
22 Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

23 (2) A declaration for nomination must be filed in the office of:

24 (a) the secretary of state for placement of a name on the ballot for the presidential preference  
25 primary, a congressional office, a state or district office to be voted for in more than one county, a member of  
26 the legislature, or a judge of the district court; or

27 (b) the election administrator for a county, municipal, precinct, or district office (other than a  
28 member of the legislature or a judge of the district court) to be voted for in only one county.

1           (3)     Each candidate shall sign the declaration and send with it the required filing fee or, in the case  
2 of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the  
3 secretary of state, the declaration for nomination must be acknowledged by an officer empowered to  
4 acknowledge signatures or by the officer of the office at which the filing is made.

5           (4)     The declaration for nomination must include an oath of the candidate that includes wording  
6 substantially as follows: "I hereby affirm that I possess, or will possess within constitutional and statutory  
7 deadlines, the qualifications prescribed by the Montana constitution and the laws of the United States and the  
8 state of Montana." The candidate affirmation included in this oath is presumed to be valid unless proven  
9 otherwise in a court of law.

10          (5)     The declaration, when filed, is conclusive evidence that the elector is a candidate for  
11 nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one  
12 party's nomination.

13          (6)     (a) The declaration for nomination must be in the form and contain the information prescribed  
14 by the secretary of state.

15          (b)     A person seeking nomination to the legislature shall provide the secretary of state with a street  
16 address, legal description, or road designation to indicate the person's place of residence. If a candidate for the  
17 legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state  
18 on a form prescribed by the secretary of state.

19          (c)     The secretary of state and election administrator shall furnish declaration for nomination forms  
20 to individuals requesting them.

21          (7)     Except as provided in 13-10-211, a candidate's declaration for nomination must be filed no  
22 sooner than 145 days before the election in which the office first appears on the ballot and no later than 5 p.m.,  
23 85 days before the date of the primary election.

24          (8)     A properly completed and signed declaration for nomination form may be sent by facsimile  
25 transmission, electronically mailed, delivered in person, or mailed to the election administrator or to the  
26 secretary of state.

27          (9)     For the purposes of implementing Article IV, section 8, of the Montana constitution, the  
28 secretary of state shall apply the following conditions:

1 (a) A term of office for an official serving in the office or a candidate seeking the office is  
 2 considered to begin on January 1 of the term for which the official is elected or for which the candidate seeks  
 3 election and to end on December 31 of the term for which the official is elected or for which the candidate seeks  
 4 election.

5 (b) A year is considered to start on January 1 and to end on the following December 31.

6 (c) "Current term", as used in Article IV, section 8, of the Montana constitution, has the meaning  
 7 provided in 2-16-214."

8

9 **Section 10.** Section 13-10-211, MCA, is amended to read:

10 **"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (7),  
 11 a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent.  
 12 Except for a candidate under ~~13-38-201(4)~~ section 1(1) or a candidate covered under 7-1-205, a candidate  
 13 may not file for more than one public office. The declaration of intent must be filed with the secretary of state or  
 14 election administrator, depending on where a declaration of nomination for the desired office is required to be  
 15 filed under 13-10-201, or with the school district clerk for a school district office. When a county election  
 16 administrator is conducting the election for a school district, the school district clerk or school district office that  
 17 receives the declaration of intent shall notify the county election administrator of the filing. Except as provided in  
 18 13-1-403, 13-1-503, 20-3-305(3)(b), and subsection (2) of this section, the declaration must be filed no later  
 19 than 5 p.m. on the 10th day before the earliest date established under 13-13-205 on which a ballot must be  
 20 available and must contain:

- 21 (a) the candidate's name, including:
  - 22 (i) the candidate's first and last names;
  - 23 (ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the  
 24 candidate's last name;
  - 25 (iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name;
  - 26 and
  - 27 (iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last  
 28 name;

1 (b) the candidate's mailing address;

2 (c) a statement declaring the candidate's intention to be a write-in candidate;

3 (d) the title of the office sought;

4 (e) the date of the election;

5 (f) the date of the declaration; and

6 (g) the candidate's signature.

7 (2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later  
8 than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the  
9 office that the write-in candidate is seeking dies or is charged with a felony offense and if the election has not  
10 been canceled as provided by law.

11 (3) The secretary of state shall notify each election administrator of the names of write-in  
12 candidates who have filed a declaration of intent with the secretary of state. Each election administrator shall  
13 notify the election judges in the county or district of the names of write-in candidates who have filed a  
14 declaration of intent.

15 (4) A properly completed and signed declaration of intent may be provided to the election  
16 administrator or secretary of state:

17 (a) by facsimile transmission;

18 (b) in person;

19 (c) by mail; or

20 (d) by electronic mail.

21 (5) A declaration is not valid until the filing fee required pursuant to 13-10-202 is received by the  
22 secretary of state or the election administrator.

23 (6) A write-in candidate who files a declaration of intent for a general election may not file with a  
24 partisan, nonpartisan, or independent designation.

25 (7) Except as provided in ~~13-38-201(4)(b)~~ [section 1(1)], the requirements in subsection (1) do not  
26 apply if:

27 (a) an election is held;

28 (b) a person's name is written in on the ballot;

1 (c) the person is qualified for and seeks election to the office for which the person's name was  
2 written in; and

3 (d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."  
4

5 **Section 11.** Section 13-10-327, MCA, is amended to read:

6 **"13-10-327. Vacancy after primary and prior to general election.** (1) Except as provided in 13-10-  
7 328 for a vacancy in the candidacy of either governor or lieutenant governor caused by the death of a  
8 candidate, if a party candidate dies or withdraws after the primary and before the general election, or if a  
9 candidate is disqualified pursuant to 13-37-126 from having the candidate's name appear on a general election  
10 ballot, the affected political party shall appoint someone to replace the candidate in one of the following ways:

11 (a) For offices to be filled by the state at large, the state central committee shall make the  
12 appointment as provided by the rules of the party.

13 (b) For offices to be filled in districts including more than one county, a committee appointed by the  
14 county ~~central~~ vacancy and delegate committees of all counties in the district shall make the appointment.  
15 Procedures for the appointment of the committee and making the appointment must be provided in party rules.

16 (c) For offices to be filled in counties, municipalities, or districts wholly within a county, the  
17 appointment must be made under rules adopted by the county ~~central~~ vacancy and delegate committee.

18 (2) Except as provided in this section, appointments to fill vacancies must be made no later than  
19 76 days before the election. A candidate may not officially withdraw 85 days or less before a general election.  
20 However, if a candidate for partisan office dies less than 85 days before the general election, the affected  
21 political party shall appoint a candidate within 5 days after being notified of the vacancy. One of the procedures  
22 provided in 13-12-204 must be used to place the name of the appointee on the ballot if necessary.

23 (3) The appointing committee shall send a certificate to the officer with whom a declaration for  
24 nomination for the office would be filed, with the information required on a declaration for nomination and the  
25 name of the candidate for whom the appointee is to be substituted. The appointee shall send a signed and  
26 acknowledged acceptance of the appointment and the filing fee for the office.

27 (4) The officer receiving the certificate of appointment, accompanied by a statement of acceptance  
28 and the filing fee, shall certify the name of the appointee for the ballot."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Section 12.** Section 13-38-107, MCA, is amended to read:

**"13-38-107. Assumed business names and trademarks of ~~central~~ committees.** Only a ~~city,~~  
~~county,~~ county vacancy or delegate committee or state central committee of a political party may register an  
assumed business name, trademark, or service mark for the central committee as provided by 30-13-219 and  
30-13-342."

**Section 13.** Section 30-13-219, MCA, is amended to read:

**"30-13-219. Political party ~~central~~ committee assumed business name.** Only a ~~city,~~ county,  
vacancy and delegate committee or state central committee of a political party may register an assumed  
business name on behalf of the ~~central~~ committee. The secretary of state may not accept an application for an  
assumed business name of a ~~city,~~ county, vacancy and delegate committee or state central committee of a  
political party unless it is accompanied by a resolution of the relevant ~~central~~ committee attesting that it is the  
entity applying for an assumed business name."

**Section 14.** Section 30-13-342, MCA, is amended to read:

**"30-13-342. Political party ~~central~~ committee marks.** Only a ~~city,~~ county, vacancy and delegate  
committee or state central committee of a political party may register a mark on behalf of the ~~central~~ committee.  
The secretary of state may not accept an application identifying the mark of a ~~city,~~ county, vacancy and  
delegate committee or state central committee of a political party unless it is accompanied by a resolution of the  
relevant ~~central~~ committee attesting that it is the entity applying for the mark."

**NEW SECTION. Section 15. Repealer.** The following sections of the Montana Code Annotated are

repealed:

- 13-38-105. City and county central committee rules to be filed with election administrator.
- 13-38-106. Precinct committee representative proxies.
- 13-38-201. Election or appointment of committee representatives at primary -- vacancies -- tie votes.
- 13-38-202. Committee representatives as party representatives -- county and city central committees.

1 13-38-203. Powers of county and city central committees -- role of state central committee where no  
2 county central committee exists.

3 13-38-204. Committees to fill vacancies among nominees under certain circumstances.

4 13-38-205. Organization and operation of committee.

5

6 NEW SECTION. **Section 16. Codification instruction.** [Section 1] is intended to be codified as an  
7 integral part of Title 13, chapter 38, part 2, and the provisions of Title 13, chapter 38, part 2, apply to [section 1].

8 - END -